

JUL 28 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

JUAN LUIS MENA VILLALPANDO; et
al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-73823

Agency Nos. A75-635-124
A75-635-125

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Juan Luis Mena Villalpando and Cecilia Marquez de Mena, husband and
wife and natives and citizens of Mexico, petition pro se for review of the Board of

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by Ninth Circuit Rule
36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

Immigration Appeals’ order affirming without opinion an immigration judge’s decision denying their applications for cancellation of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings, *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the agency’s discretionary determination that petitioners failed to show exceptional and extremely unusual hardship. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 929 (9th Cir. 2005).

Petitioners’ due process claim is foreclosed by *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 848-53 (9th Cir. 2003) (holding that the BIA’s streamlining procedure comports with due process).

Petitioners’ equal protection challenge to the Nicaraguan Adjustment and Central American Relief Act (“NACARA”) is foreclosed by our decision in *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 602-03 (9th Cir. 2002) (“Congress’s decision to afford more favorable treatment to certain aliens ‘stems from a rational diplomatic decision to encourage such aliens to remain in the United States’”).

Petitioners’ due process challenge to NACARA also fails. *See Hernandez-Mezquita v. Ashcroft*, 293 F.3d 1161, 1165 (9th Cir. 2002) (rejecting a due process

challenge because petitioner failed to demonstrate that he was deprived of a qualifying liberty interest).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.